

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE:	)	
	)	
NEW ENGLAND COMPOUNDING PHARMACY, INC.)	)	Multi-District Litigation
PRODUCTS LIABILITY LITIGATION,	)	Case No. 1:13-md-2419-RWZ
	)	
	)	

**MARCH 2017 STATUS REPORT OF TORT TRUSTEE**

Lynne F. Riley, Tort Trustee<sup>1</sup> under the Tort Trust dated June 4, 2015 created pursuant to the *Third Amended Joint Chapter 11 Plan of New England Compounding, Inc.* confirmed by the United States Bankruptcy Court for the District of Massachusetts on May 20, 2015, hereby submits a report on the status of claims processing, lien clearance and payments in the NECC National Settlement annexed hereto as Exhibit A.

Respectfully Submitted,

LYNNE F. RILEY, TORT TRUSTEE

/s/ Lynne F. Riley

Dated: March 29, 2017

<sup>1</sup> Capitalized terms used, but not otherwise defined herein shall have the meanings ascribed to those terms in the *Third Amended Joint Chapter 11 Plan of New England Compounding, Inc.*

**CERTIFICATE OF SERVICE**

I, Lynne F. Riley, hereby certify that on the date set forth above I caused true copies of the foregoing document to be served through the Court's CM/ECF system upon all registered electronic filers appearing in this case.

/s/ Lynne F. Riley  
Lynne F. Riley

## **Exhibit A**

### **STATUS OF CLAIMS PROCESSING, LIEN CLEARANCE AND PAYMENTS IN THE NECC NATIONAL SETTLEMENT**

#### **A. Adjudication of Claims by the National Claims Administrator.**

A total of 2,352 claims have been filed with Epiq, the National Settlement Administrator. Of these, 2,018 claims have been fully or partially approved by Epiq and/or Judge Neiman, 311 claims have been fully denied by Epiq and/or Judge Neiman, 21 were invalid (typically a duplicate claim filed by a spouse), and 2 were withdrawn by the claimant. Of these claims there is 1 claim that has been denied but is not yet final and subject to a possible appeal, 1 claim that has been finally denied and subject to a possible appeal, and there are 16 claims that applied for reconsideration under a new base point category and were either fully or partially denied and are subject to possible appeal.

#### **B. Status of Appeals to Judge Neiman.**

128 claimants originally filed appeals of their final determination with Judge Neiman, the Court-appointed Appeals Administrator. Judge Neiman has issued decisions for all 128 of the filed appeals. As noted above, there are 18 claims which remain subject to a possible appeal.

#### **C. The Tort Trustee's Efforts to Resolve Claims Asserted by Public and Private Entities for Reimbursement of Health Care Costs.**

##### **1. Claims for health care cost reimbursement.**

As required under federal law, the Tort Trustee submitted the required information on proposed payments to approved claimants to the Center for Medicare Services ("CMS") who promptly returned Medicare eligibility information on each claimant. Information on each approved claimant was provided to the various state Medicaid agencies through a third party, the Garretson Resolution Group ("Garretson"), to determine if those agencies have claims for medical expenses involving these claimants. As of March 1, 2017, State Medicaid eligibility results have been received for over 95% of all approved claimants. In addition to receipt of lien information from Medicare and Medicaid, the Tort Trustee has also received claims for health care cost reimbursement from various private entities.

## **2. Lien packages mailed to approved claimants and their attorneys**

As previously reported, by December 1, 2016, the Tort Trustee, with the assistance of her staff, attorneys, and certain staff of members of the PSC, issued lien letter packages to all of the 1,912 claimants then eligible to receive a lien package. An identical lien package was sent to counsel for each represented claimant.

Of the 2,018 fully or partially approved claims, approximately 1,970 have now received a lien package. The Tort Trustee anticipates sending lien packages to the remaining approved claimants in the next 60 days.

## **3. Update on Payments to Finally Approved Claimants Who Have Cleared All Liens.**

As claimants return properly executed certifications and other documentation, claims for reimbursement by public and private entities are thereby cleared. Under the lien resolution agreement with Medicare, Medicare must then provide its final approval for the issuance of initial payments within 5 business days. To date Medicare has typically provided its final approval within three to four business days. Once Medicare sends its final approval to the Tort Trustee, checks are being issued for a claimant's initial payment, typically within 24 hours.

### **i. Payments made to claimants to date.**

As of today, the Tort Trust has mailed 1810 payments to claimants. Of these, 206 checks were payments from one of the individual clinic settlements – meaning 206 individuals received both an Initial Payment from the National Settlement and a payment from a clinic settlement.

To date, funds disbursed to claimants by the Tort Trustee total \$77,678,558.00.

## **D. Anticipated Timing on Second Payments from the National Settlement.**

Pursuant to the Claims Resolution Procedure, “within 120 days of when all claims are finally determined, [and] all appeals are resolved by the Appeals Administrator....”, the National Settlement Administrator shall determine the final dollar value of each point awarded to claimants, so that the Tort Trustee may make second payments to claimants from the National Settlement. It is still estimated that the second payments will be approximately equivalent to the

amounts of the Initial Payments. The Tort Trustee estimates that Second Payments will be issued this summer.

#### **E. Next Status Report**

As the next status conference is scheduled for April 20, 2017, and the Tort Trustee does not expect the status of claims processing or lien clearance to significantly change before that date, the Tort Trustee intends to submit a further status report in May 2017.

#### **F. Summary Chart**

For the Court's convenience, the pertinent numbers set forth above are summarized in the chart below:

<b>Adjudication of Claims</b>		
Total Claims Filed:	2,352	
Total Approved Claims to Date	2,018	
Total Claims Fully and Finally Denied	311	
Claims Withdrawn by the Claimant	2	
Invalid Claims	21	

<b>Lien Clearance and Initial Payments to Finally Approved Claimants</b>		
Number of Claimants eligible to receive lien package	2,018	
Number of Claimants Sent lien package	Approx. 1,970	
Number of claimants mailed payments to date	1604	Initial Payments from Nat'l Settlement
	206	Clinic Payments
	1810	Total Payments

Total Amount Distributed to Claimants To Date	\$77,678,558	
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